IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1839 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAGDISH OIL INDUSTRIES - Petitioner(s)

Versus

COLLECTOR & 1 - Respondent(s)

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Appearance :

MR BA SURTI for Petitioner(s) : 1,

MS ARCHANA RAVAL AGP for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 01/02/2006

ORAL JUDGMENT

1. By way of this petition under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the legality and validity of the order passed by the Deputy Secretary, Food and Civil Supply, State Government dtd.3/1/1996 in Appeal No.474 of 1994 in dismissing the same and confirming the order passed by the Collector, Junagadh dtd.5/7/1994, by which quantity of 4,141 Kgs. Vegetable Ghee worth Rs.1,36,653-00 came to be confiscated.

2. The petitioner was having a licence as required under the provisions of the Gujarat Essential Articles Controlled Order, 1981. The petitioner was served with show cause notice dtd.1/2/1993 on the basis of the inspection /

raid carried out on 30/10/1993, quantity of 4141 Kgs. Vegetable Ghee came to be seized. After considering the reply submitted by the petitioner and after holding all the charges against the petitioner proved, the Collector, Junagadh passed order dtd.16/7/1994 directing to confiscate the entire seized quantity of 4,141 Kgs. Vegetable Ghee worth Rs.1,36,653-00. Against the said order, the petitioner preferred an Appeal before the State Government being Appeal No.474 of 1994 and the Dy.Secretary, Food and Civil Supply, State of Gujarat by his impugned judgement and order dtd. 3/1/1996 dismissed the said appeal confirming the order passed by the Collector, Junagadh dtd.5/7/1994. Being aggrieved by and dissatisfied with the said order, the present petitioner has preferred the present petition under Articles 226 and 227 of the Constitution of India.

3. Mr.B.A. Surti, learned advocate appearing

on behalf of the petitioner has made only one submission that the confiscation of the entire quantity of 4,141 Kgs. Vegetable Ghee worth Rs.1,36653-00 is too harsh considering the breaches alleged against the petitioner, as technical. Consequently, he has requested to allow the present petition and reduce the penalty.

4. On the other hand, Ms.Archana Raval, learned AGP while supporting the order passed by the Dy.Secretary has submitted that considering the charges and allegations proved against the petitioner and considering the fact that there are concurrent findings of fact recorded by both the authorities below, the impugned orders are not required to be interfered with. Consequently, it is requested to dismiss the present petition.

5. Heard the learned advocates appearing on behalf of the parties. It is not in dispute that

after considering the reply submitted by the petitioner to the show cause notice, the Collector, Junagadh passed the order dtd.16/7/1994 confiscating the entire quantity of 4,141 Kgs. Vegetable Ghee worth Rs.1,36,653-00 after holding the charges and allegations proved against the petitioner, and not only that, but even the petitioner also admitted Charge Nos.2,3,4 and 5. The Collector Junagadh did not accept the submissions on behalf of the petitioner that the said charges and the breaches are of technical in nature. Considering the fact that the breaches are very serious, the impugned order came to be passed and the same came to be confirmed by the State of Gujarat, after giving an opportunity to the petitioner and considering the submissions made on behalf of the petitioner. There are concurrent findings of fact recorded by both the authorities below and considering the allegations and charges proved against the petitioner and the breaches which are held to be

proved by both the authorities below, it cannot be said that the said breaches are of technical in nature. Considering the concurrent findings of fact recorded by both the authorities below and the charges and breaches which came to be admitted by the petitioner, it cannot be said that the order passed by the both the authorities below confiscating quantity of 4,141 Kgs. Vegetable Ghee worth Rs.1,36653-00 are in any way illegal, and/or perverse and/or arbitrary which require interference of this Court in exercise of the powers under Articles 226 and 227 of the Constitution of India.

6. For the reasons as aforesaid, the petition fails. Rule is discharged. Ad-interim relief granted earlier, if any, stands vacated forthwith. However, there will be no order as to costs.

(M.R.SHAH,J.)

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